

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION**

DAVID W. HAYES

Plaintiff,

v.

MICHAEL J. ASTRUE

Commissioner of Social Security,

Defendant.

)
)
)
)
)
)
)
)
)
)

Civil Action No. 2:08CV17

J U D G M E N T

THIS MATTER is before the Court on the parties' consent motion, pursuant to sentence four of 42 U.S.C. § 405(g), requesting the Court to enter a judgment reversing Defendant's decision with a remand of the cause for further administrative proceedings. Based on the consent of the parties, the motion will be granted.

On remand, the Commissioner will assign this matter to an Administrative Law Judge ("ALJ") who will hold a hearing to further explore Plaintiff's performance of substantial gainful activity.

Pursuant to the power of this Court to enter a judgment reversing the Commissioner's decision with remand in Social Security actions under sentence four of 42 U.S.C. § 405(g),

IT IS, THEREFORE, ORDERED that the motion is **ALLOWED**, and this Court hereby **REVERSES** the Commissioner's decision under sentence four of 42 U.S.C. § 405(g), and **REMANDS** this cause to the Commissioner for further proceedings. *See Melkonyan v. Sullivan*, 501 U.S. 89 (1991).

Signed: January 9, 2009

A handwritten signature in dark ink, appearing to read "Lacy H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge

